

REMARKS

New claims 59-61 are added. Support for the new claims is provided by exemplary embodiments of the invention disclosed by the originally-filed application at, for example, page 9, last paragraph and Fig. 5.

Claims 22, 24-46 and 49-57 are allowed.

Claim 58 stands rejected under 35 U.S.C. §102(b) as being anticipated by Kaufman (US patent no. 5,323,301). Respectfully, the Office is mistaken.

The Office is respectfully reminded that a proper anticipation rejection requires that: “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added); MPEP §2131.

Independent claim 58 recites “wherein a drive unit for moving the plates is arranged outside a **gas space** (G).” However, Kaufman does not teach a “gas space,” neither expressly nor inherently. In fact, gas is not recited once in the document. However, to allegedly teach a “gas space,” the Office refers to lamp 12 with filament 14 shown in Fig. 1 of Kaufman and states “... the bulb is filled with gas for the purpose of emitting light.” (page 2 of paper no. 20100616). Nowhere in the Kaufman document is there a teaching to bulb or lamp 12 being “filled with gas” as stated by the Office. Respectfully, as the above authority makes clear, the Office cannot assume

a teaching of a positively recited limitation for a proper anticipation rejection.

In fact, one skilled in the art understands that the Fig. 1 lamp (or light bulb) 12 of Kaufman is characteristic of an incandescent lamp or light bulb as shown in U.S. patent no. 4,296,352 (provided in an information disclosure statement filed herewith) and which teaches a “conventional lamp construction” **includes a vacuum in the lamp** envelope made of glass (column 2, lines 45-61). Moreover, the internet teaches that lamps or light bulbs made with vacuums have advantages including avoidance of “[a]ir oxidiz[ing] the filament” and more energy efficient relative other designs (see page 2 of The Great Internet Light Bulb Book, Part I at <http://members.misty.com/don/bulbl.html>, also presented in the information disclosure statement). Accordingly, Kaufman fails to teach “wherein a drive unit for moving the plates is arranged outside a **gas space (G)**” as positively recited by claim 58, and respectfully, the Office cannot assume such a teaching. Since the Office has failed to provide teachings of “each and every element as set forth in [] claim [58]” as is required for a proper anticipation rejection pursuant to the above authority, claim 58 is allowable.

Since no other rejections are presented against independent claim 58, the claim is in form for allowance.


New claims 59-60 depend from allowable independent claim 58, and therefore, the dependent claims are at least allowable for depending from an allowable independent claim. In addition, the dependent claims are

allowable for reasons that are distinct to the allowability of independent claim 58.

This application is now believed to be in immediate condition for allowance, and action to that end is respectfully requested. If the Examiner's next anticipated action is to be anything other than a Notice of Allowance, the undersigned respectfully requests a telephone interview prior to issuance of any such subsequent action.

Respectfully submitted,

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By: 
D. Brent Kenady
Reg. No. 40,045